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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 10th May, 1985:—

BILL NO. 57 OF 1985

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1985. **Short title.**

2. Article 130 of the Constitution shall be re-numbered as clause (1) thereof and after clause (1) as so re-numbered, the following clause shall be added, namely:— **Amendment of article 130.**

"(2) Notwithstanding the provisions of clause (1), a Bench of the Supreme Court shall be appointed to sit in Bangalore, and such of the Judges of the Supreme Court, being not less than five in number, as the Chief Justice of India may, from time to time nominate, shall sit in Bangalore with jurisdiction over and the law administered in the High Courts in the States of Andhra Pradesh, Karnataka, Kerala and Tamil Nadu.".

STATEMENT OF OBJECTS AND REASONS

The seat of the Supreme Court of India is in Delhi. There has been a public demand as is evidenced from the questions raised in Parliament for the establishment of a Bench of the Supreme Court in the southern region of India. This demand has been voiced in view of the tremendous problems being faced by thousands of litigants coming from the southern region comprising Kerala, Karnataka, Tamil Nadu and Andhra Pradesh. The enormous amount of money that the litigants from these States have to spend by way of travel expenses, lodging, etc. and the time involved in coming and staying in Delhi underscores the urgency to provide them some relief. Moreover, it is the declared objective of the Government to provide cheap and speedy justice to the people.

Article 130 of the Constitution enables the Chief Justice of India to appoint the place or places of sittings of the Supreme Court other than Delhi. In view of the difficulties being experienced by the people from the southern region, it is very essential to establish a permanent Bench of the Supreme Court in the south. This need of the people has to be given legislative effect.

Hence this Bill.

NEW DELHI;
February 2, 1985.

P. J. KURIEN

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the establishment of a Bench of the Supreme Court at Bangalore. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. The recurring expenditure is likely to be around rupees five lakhs and non-recurring expenditure about rupees two and a half lakhs.

BILL No. 87 OF 1985

A Bill to provide for the establishment of a permanent Bench of the High Court at Calcutta at Siliguri.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the High Court at Calcutta (Establishment of a Permanent Bench at Siliguri) Act, 1985.

Establishment of a permanent Bench of the High Court at Calcutta at Siliguri

2. There shall be established a permanent Bench of the High Court at Calcutta, at Siliguri, and such judges of the High Court at Calcutta, being not less than two in number, as the Chief Justice of that High Court may, from time to time nominate, shall sit at Siliguri in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in Jalpaiguri, Darjeeling, Cooch Behar, West Dinajpur and Malda districts of West Bengal.

STATEMENT OF OBJECTS AND REASONS

There is a dire need for locating a Bench of the High Court at Calcutta at Siliguri for the administration of speedy and cheap justice and for the convenience of the litigant public of the region. The Bill provides for the establishment of such a Bench at Siliguri, which is a central and well connected city in the region.

Hence this Bill.

NEW DELHI;
March 19, 1985.

PIUS TIRKEY

BILL NO. 84 OF 1985

A Bill to provide for the establishment of the State of Goa, Daman and Diu and for matters connected therewith.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

PART I

PRELIMINARY

Short title.

1. This Act may be called the State of Goa, Daman and Diu Act, 1985.

Definitions.

2. In this Act, unless the context otherwise requires—

(*a*) "Administrator" means the administrator appointed by the President under article 239 of the Constitution;

(*b*) "appointed day" means the day which the Central Government may, by notification in the Official Gazette, appoint;

(*c*) "article" means an article of the Constitution;

(*d*) "Election Commission" means the Election Commission appointed by the President under article 324;

(*e*) "existing Union territory of Goa, Daman and Diu" means the Union Territory of Goa, Daman and Diu as existing immediately before the appointed day;

(*f*) "law" includes any enactment, ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument having, immediately before the appointed day, the force of law in the whole or any part of the existing Union territory of Goa, Daman and Diu;

(*g*) "sitting member", in relation to the House of the People means a person who, immediately before the appointed day, as a member of the House;

(*h*) "treasury" includes a sub-treasury.

PART II

ESTABLISHMENT OF THE STATE OF GOA, DAMAN AND DIU

Establishment of State of Goa, Daman and Diu.

3. On and from the appointed day, there shall be established a new State, to be known as the State of Goa, Daman and Diu, comprising the territories which immediately before that day were comprised in the existing Union territory of Goa, Daman and Diu.

Amendment of First Schedule to the Constitution.

4. On and from the appointed day, in the First Schedule to the Constitution,—

(*a*) under the heading "I. THE STATES" after entry 22, the following entry shall be inserted, namely:—

"23. Goa, Daman and Diu....The territories specified in section 3 of the State of Goa, Daman and Diu Act, 1985.";

(*b*) under the heading "II. UNION TERRITORIES", entry 5 relating to Goa, Daman and Diu shall be omitted and entries 6 to 9 shall be re-numbered as entries 5 to 8 respectively.

PART III

REPRESENTATION IN THE LEGISLATURES

The Council of States

Representation in Council in States.

5. As from the appointed day—

(*a*) there shall be allotted one seat to the State of Goa, Daman and Diu in the Council of States;

(*b*) in the Fourth Schedule to the Constitution, in the Table,—

(i) after entry 26, the following entry shall be added, namely:—

"27. Goa, Daman and Diu.....1"

(ii) at the end, for the figures "232", the figures "233" shall be substituted.

Election to fill the seat allotted to the State of Goa, Daman and Diu.

6. As soon as may be after the appointed day, there shall be held an election to fill the seat allotted to the State of Goa, Daman and Diu in the Council of States.

The House of the People

7. On and from the appointed day,-

43 of 1950.

(*a*) in the First Schedule to the Representation of the People Act, 1950,—

(*i*) under the heading "I. STATES",—

(*a*) entries 4 to 22 shall be renumbered as entries "5 to 23" respectively;

(*b*) after entry 3, the following entry shall be inserted, namely:—

"4 Goa, Daman and Diu....2...."

(*ii*) under the heading "II. UNION TERRITORIES", entry 6 relating to Goa, Daman and Diu shall be omitted.

(*b*) the two parliamentary constituencies of the existing Union territory of Goa, Daman and Diu shall be deemed to be the two Parliamentary Constituencies of the State of Goa, Daman and Diu and the Delimitation of Parliamentary and Assembly Constituencies Order, 1966, shall be construed accordingly.

Provision as to Sitting member.

8. Every sitting member of the House of the People representing a constituency which, on the appointed day, by virtue of the provisions of section 7, becomes a constituency of the State of Goa, Daman and Diu shall be deemed to have been elected under sub-clause (*a*) of clause (*1*) of article 81 to the House of the People by that constituency.

The Legislative Assembly

Allocation of seats in the Legislative Assembly.

9. The total number of seats in the Legislative Assembly of the State of Goa, Daman and Diu, to be constituted at any time after the appointed day, to be filled by persons chosen by direct election from territorial constituencies shall be sixty.

Amendment of Second Schedule to Act 43 of 1950.

10. (*1*) In the Second Schedule to the Representation of the People Act, 1950—

(*i*) under the heading "I. STATES",—

(*a*) entries 4 to 22 shall be renumbered as entries "5 to 23" respectively;

(*b*) after entry 3, the following entry shall be inserted, namely:—

"4. Goa, Daman and Diu....60...."

(*ii*) under the heading "II. UNION TERRITORIES", entry 2 relating to Goa, Daman and Diu shall be omitted.

(2) The amendments made by clauses (*a*) and (*b*) of sub-section (*1*) shall have effect in relation to the Legislative Assembly of the State of Goa, Daman and Diu to be constituted at any time after the appointed day.

Definition of Constituencies.

11. The Election Commission shall distribute, whether before or after the appointed day, the seats assigned to the Legislative Assembly of the State of Goa, Daman and Diu under section 9 to single member territorial constituencies and delimit them on the basis of the latest census figures having regard to the provisions of the Constitution and to the following provisions:—

(*a*) all constituencies shall, so far as practicable, be geographically compact areas and in delimiting them regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience; and

(*b*) every assembly constituency shall be so delimited as to fall only within one parliamentary constituency.

Rules of Procedure.

12. The Rules of Procedure and Conduct of Business of the Legislative Assembly of the existing Union territory of Goa, Daman and Diu as in force immediately before the appointed day shall, until rules are made under clause (*1*) of article 208, be the rules of procedure and conduct of business of the Legislative Assembly of the State of Goa, Daman and Diu, subject to such modifications and adaptations as may be made therein by the Governor of that State.

PART IV

AUTHORISATION OF EXPENDITURE AND DISTRIBUTION OF REVENUES

Authorisation of expenditure pending its sanction by Legislative Assembly.

13. (*1*) The President may, at any time before the appointed day, authorise by order such expenditure from the Consolidated Fund of the State of Goa, Daman and Diu as he deems necessary for a period of not more than six months beginning with the appointed day, pending the sanction of such expenditure by the Legislative Assembly of the State of Goa, Daman and Diu:

Providing that the Governor of Goa, Daman and Diu may, after the appointed day, authorise by order such further expenditure as he deems necessary from the Consolidated Fund of the State of Goa, Daman and Diu for any period not extending beyond this said period of six months.

(*2*) The President or, as the case may be, the Governor of Goa, Daman and Diu shall make separate orders under sub-section (*1*) in respect of periods falling in different financial years.

Reports relating to the accounts of the existing Union territory of Goa, Daman and Diu.

14. (*1*) The reports of the Comptroller and Auditor General of India referred to in section 49 of the Government of Union Territories Act, 1963, relating to the accounts of the existing Union territory of Goa, Daman and Diu in respect of any period prior to the appointed day, shall be submitted to the Governor of Goa, Daman and Diu, who shall cause them to be laid before the Legislative Assembly of the State. 20 of 1963.

(*2*) The Governor may, by order,—

(*a*) declare any expenditure incurred out of the Consolidated Fund of the existing Union territory of Goa, Daman and Diu on any service in respect of any period prior to the appointed day during any financial year in excess of the amount granted for that service and for that year as disclosed in the reports referred to in sub-section (*1*) to have been duly authorised, and

(*b*) provide for any action to be taken on any matter arising out of the said reports.

Allowances and privileges of Governor of Goa, Daman and Diu.

15. The allowances and privileges of the Governor of Goa, Daman and Diu shall, until provision in that behalf is made by Parliament by law under clause (*3*) of article 158, be such as the President may, by order, determine.

Distribution of revenues.

16. The President, shall by order, determine the grants-in-aid of the revenue of the State of Goa, Daman and Diu and the share of that State in the Union duties of excise, estate duty and taxes on income and for that purpose amend thereby the relevant provision of the Union Duties of Excise (Distribution) Act, 1962, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Estate Duty (Distribution) Act, 1962, and the Constitution (Distribution) of Revenue Order, 1969, in such manner as he thinks fit.

3 of 1962. 58 of 1957. 9 of 1962. C.O. 87

PART V

ASSETS AND LIABILITIES

Property, assets, rights, liabilities, obligations, etc.

17. (*1*) All such property and assets within the existing Union territory of Goa, Daman and Diu as are held immediately before the appointed day by the Union for purposes of Governance of that Union territory shall, on and from that day, pass to the State of Goa, Daman and Diu unless the purposes for which such property and assets are so held are Union purposes:

Provided that the cash balance in the treasuries in the Union territory of Goa, Daman and Diu before the appointed day shall, as from that day, vest in the State of Goa, Daman and Diu.

(*2*) All rights, liabilities and obligations (other than those relatable to, or in connection with, a Union purpose), which are immediately before the appointed day,—

(*a*) the rights, liabilities and obligations of the Central Government arising out of, or in connection with, the governance of the Union territory of Goa, Daman and Diu; or

(*b*) the rights, liabilities and obligations of the Administrator of the existing Union territory of Goa, Daman and Diu in his capacity as such, or of the Government of that Union territory,

shall, on and from the appointed day, be the rights, liabilities and obligations of the Government of the State of Goa, Daman and Diu.

(*3*) The right to recover arrears of—

(*a*) any tax or duty being a tax or duty enumerated in the State List in the Seventh Schedule to the Constitution, or

(*b*) any duty referred to in article 268, or

(*c*) any tax under the Central Sales Tax Act, 1956, which have fallen due in the existing Union territory of Goa, Daman and Diu.

74 of 1956.

shall pass to the State of Goa, Daman and Diu.

(4) The provisions of this section shall not apply to or in relation to,—

(a) any institution, undertaking or project the expenditure in relation to which is immediately before the appointed day met from out of the Consolidated Fund of India;

(b) any property which has been placed by the Union at the disposal of the Administration of the existing Union territory of Goa, Daman and Diu subject to the condition that the ownership thereof will continue to vest in the Union.

Explanation—For the purposes of this section—

(a) "liability" includes liability in respect of any civil deposit, local fund deposit, charitable or other endowment, provident fund account, pension or actionable wrong;

(b) "Union purposes" means the purposes of Government relatable to any of the matters mentioned in the Union List.

PART VI

PROVISIONS AS TO SERVICES

Provision relating to All-India Services.

18. (1) In this section, the expression "State Cadre",—

(a) in relation to the Indian Administrative Service, has the meaning assigned to it in the Indian Administrative Service (Cadre) Rules, 1954;

(b) in relation to the Indian Police Service, has the meaning assigned to it in the Indian Police Service (Cadre) Rules, 1954;

(c) in relation to the Indian Forest Service, has the meaning assigned to it in the Indian Forest Service (Cadre) Rules, 1966.

(2) On and from the appointed day, there shall be constituted for the State of Goa, Daman and Diu a State Cadre of the Indian Administrative Service, a State Cadre of the Indian Police Service and a State Cadre of the Indian Forest Service.

(3) The initial strength and composition of each of the said State cadres shall be such as the Central Government may, by order, determine before the appointed day.

(4) Such of the members of each of the said Services borne on the Union territories cadre thereof immediately before the appointed day, as the Central Government may, by order, specify, shall be allocated to the State cadre of Goa, Daman and Diu of the same Service with effect from such date or dates as may be specified in the order.

(5) Nothing in this section shall be deemed to affect the operation after the appointed day of the All-India Services Act, 1951, or the rules or regulations made thereunder in relation to the State cadre of the said Services referred to in sub-section (2) or sub-section (4) and in relation to the members of those services borne on the State cadre. 61 of 1951.

Provision relating to certain Services.

19. (*1*) On and from the appointed day, there shall be constituted for the State of Goa, Daman and Diu the following services, namely:—

(*a*) The Goa, Daman and Diu Administrative Service; and

(*b*) the Goa, Daman and Diu Police Service.

(*2*) The initial strength and composition of the cadres of the said Services shall be such as the Administrator of the existing Union territory of Goa, Daman and Diu may, with the approval of the Central Government, by order, determine before the appointed day.

(*3*) Subject to the foregoing provision of this section, the rules and regulations applicable to or in relation to the members of the existing Civil Service and the existing Police Service as in force immediately before the appointed day shall, so far as may be, apply respectively to and in relation to the members of the Goa, Daman and Diu Administrative Service and the Goa, Daman and Diu Police Service until altered, repealed, or amended by the competent authority.

(*4*) Every member of the Central Health Service who immediately before the appointed day is holding any post in the existing Union territory of Goa, Daman and Diu being a post included in the authorised strength of that service, shall, until otherwise directed by the Central Government, be deemed to be on deputation, on and from the appointed day, to the Government to the State of Goa, Daman and Diu on the same terms and conditions of service as are applicable to him under the Central Health Service Rules, 1963, but without any deputation allowance:

Provided that the period of such deputation shall in no case extend beyond a period of three years from the appointed day.

Explanation.—In this sub-section, "Central Health Service" means the Central Health Service constituted under the Central Health Service Rules, 1963.

Provisions relating to other Services.

20. (*1*) Every person who immediately before the appointed day is serving in connection with the affairs of the Union under the administrative control of the Administrator of the Union territory of Goa, Daman and Diu shall, unless otherwise directed by an order of the Central Government, be deemed to have been allocated for service as from that day in connection with the affairs of the State of Goa, Daman and Diu:

Provided that no directions shall be issued under this section after the expiry of a period of one year from the appointed day.

(*2*) The provisions of this section shall not apply in relation to persons to whom the provisions of sections 18 and 19 apply.

Other provisions as to services.

21. (*1*) Nothing in this section or sections 19 and 20 shall be deemed to affect on or after the appointed day the operation of the provisions of Chapter I of Part XIV of the Constitution in relation to determination of the conditions of service of persons serving in connection with the affairs of the State of Goa, Daman and Diu:

Provided that the conditions of service applicable immediately before the appointed day in the case of any person referred to in section 19 of

section 20 shall not be varied to his disadvantage except with the previous approval of the Central Government.

(2) All services prior to the appointed day rendered by a person allocated under section 19 or deemed to have been allocated under section 20 in connection with the administration of the Union territory of Goa, Daman and Diu, shall be deemed to have been rendered in connection with the affairs of the State of Goa, Daman and Diu for the purposes of the rules regulating his conditions of service.

Provisions as to Continuance of officers in same posts.

22. Every person who immediately before the appointed day is holding or discharging the duties of any post or office in connection with the administration of the Union territory of Goa, Daman and Diu, shall continue to hold the same post or office in the State of Goa, Daman and Diu and shall be deemed, on and from that day, to have been duly appointed to that post or office by the Government of, or other appropriate authority, in the State of Goa, Daman and Diu:

Provided that nothing in this section shall be deemed to prevent a competent authority on or after the appointed day from passing in relation to such person any order affecting his continuance in such post or office.

Advisory Committees.

23. The Central Government may, by order, establish one or more Advisory Committees for the purpose of assisting it in regard to—

(a) the discharge of its functions under this part; and

(b) the ensuring of fair and equitable treatment to all persons affected by the provisions of this part and the proper consideration of any representations made by such persons.

Power of Central Government to give directions.

24. The Central Government may give such directions to the Government of the State of Goa, Daman and Diu as may appear to it to be necessary for the purpose of giving effect to the foregoing provisions of this Part, and the State Government shall comply with such directions.

PART VII

LEGAL AND MISCELLANEOUS PROVISIONS

Amendment of article 210, article 239A and article 240.

25. On and from the appointed day—

(a) in the proviso to clause (2) of article 210, for the words "States of Himachal Pradesh, Manipur, Meghalaya and Tripura", the words "States of Goa, Daman and Diu, Himachal Pradesh, Manipur, Meghalaya and Tripura" shall be substituted.

(b) in clause (1) of article 239A and in clause (1) of article 240, the words "Goa, Daman and Diu" shall be omitted.

Amendment of Act 20 of 1963.

26. On and from the appointed day, in the Government of Union Territories Act, 1963, in clause (h) of sub-section (1) of section 2, the words "Goa, Daman and Diu" shall be omitted.

Continuance of existing laws and their adaptation.

27. (1) All laws in force, immediately before the appointed day, in the existing Union territory of Goa, Daman and Diu shall continue to be in force in the State of Goa, Daman and Diu until altered, repealed or amended by a competent Legislature or other competent authority.

(2) For the purpose of facilitation the application in relation to the State of Goa, Daman and Diu of any law made before the appointed day, the appropriate Government may, within two years from that day, by

order, make such adaptations and modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient, and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent Legislature or other competent authority.

Explanation.—In this section, the expression "appropriate Government" means, as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government; and as respects any other law, the Government of the State of Goa, Daman and Diu.

Power to construe laws.

28. Notwithstanding that no provision or insufficient provision has been made under section 27 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the State of Goa, Daman and Diu, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

Provisions as to continuance at courts, etc.

29. All courts and tribunals and all authorities discharging lawful functions throughout the existing union territory of Goa, Daman and Diu or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent Legislature or other competent authority, continue to exercise their respective functions.

Effect of provisions of Act inconsistent with other laws.

30. The provisions of this Act shall have effect notwithstanding anything inconsistent therein contained in any other law.

Power to remove difficulties.

31. (*1*) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

(*2*) Every order made under this section shall be laid before each House of Parliament.

Power to make rules.

32. (*1*) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(*2*) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in Session for a total period of thirty days which may be comprised in one Session or in two successive Sessions, and if, before the expiry of the Session in which it is so laid or the Session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The aspiration of the people of Goa, Daman and Diu has all along been to attain full Statehood within the Union. On March 26, 1971, the Union Territory's Legislative Assembly passed a resolution urging the Government to move the Central Government to bring forward immediately necessary legislation to grant Statehood to Goa, Daman and Diu. Most of the Union territories have been granted Statehood. It is in the fitness of things, therefore, that the wishes of the people of Goa, Daman and Diu for Statehood are also fulfilled. The Bill seeks to achieve this object.

NEW DELHI;
February 2, 1985.

EDUARDO FALEIRO

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. S-16017|2|85-SR, dated 25 March, 1985 from Shrimati Ram Dulari Sinha, Minister of State in the Ministry of Home Affairs to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Bill by Shri Eduardo Faleiro, M.P., to provide for the establishment of the State of Goa, Daman and Diu and for matters connected therewith, recommends the introduction of the Bill in Lok Sabha under articles 117(1) and 274(1) of the Constitution.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the allotment of one seat to the new State in the Council of States. This will involve extra recurring expenditure of about rupees thirty thousand per year on account of salary, allowances, etc. of a member.

2. Clause 11 of the Bill seeks to empower the Election Commission to delimit the Assembly Constituencies of the new State of Goa, Daman and Diu. For this purpose a non-recurring expenditure of about rupees ten thousand will have to be incurred from the Consolidated Fund of India.

3. As a State, Goa, Daman and Diu will be entitled to a share in the Central taxes which will be determined in pursuance of clause 16 of the Bill. This would augment the States revenue, but a gap between the revenue receipts and expenditure on revenue account may still be left. In the past, the Finance Commission had taken note of such deficits and recommended suitable grants-in-aid under article 275(1) of the Constitution for various States. It is, therefore, proposed to provide for such quantum of grants-in-aid to the new State as may be considered necessary until the recommendations of the next Finance Commission become available, by suitably amending the provisions of Constitution (Distribution of Revenues) Order, 1969, in exercise of the powers sought to be taken under clause 16 of the Bill.

4. Clause 23 of the Bill seeks to empower the Central Government to establish one or more Advisory Committees for the purpose of assisting it in regard to the discharge of its functions in relation to allocation of the members of services and ensuring of fair and equitable treatment to all persons affected. An expenditure of about rupees five thousand may have to be incurred from the Consolidated Fund of India on account of travelling allowance of Members of these Committees.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 15 of the Bill enables the President to determine by order the allowances and privileges of the Governor of the new State.

Clause 16 of the Bill empower the President to determine by order the grants-in-aid to the new State and its share of Central Taxes and amend for that purpose the relevant provisions of the Union Duties of Excise (Distribution) Act, 1962, the Additional Duties of Excise (Goods of Special Importance) Act, 1957, the Estate Duty (Distribution) Act, 1962 and the Constitution (Distribution of Revenues) Order, 1969.

Clause 27 of the Bill provides for the adaptation of existing laws to facilitate their application to the new State. The power to adapt is being conferred on the Central Government in the case of laws relating to matters enumerated in the Union List in the Seventh Schedule to the Constitution and on the Government of the new State in the case of all other laws.

Clause 32 of the Bill empowers the Central Government to make rules to give effect to the provisions of the Bill when enacted. The rules, if any, will be confined to matters of procedure and other matters of minor detail relating to the enforcement of the various provisions included in the Bill.

The aforementioned provisions are mainly of a consequential nature or pertain to matters of details and procedure. As such, the proposed delegation of legislative powers is of a normal character.

BILL No. 101 OF 1985

A Bill to amend the Contract Labour (Regulation and Abolition) Act, 1970

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Contract Labour (Regulation and Abolition) Amendment Act, 1985. Short title and commencement.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 1 of the Contract Labour (Regulation and Abolition) Act, 1970 (hereinafter referred to as the principal Act),— Amendment of section 1.

37 of 1970

(*i*) for sub-section (4), the following sub-section shall be substituted, namely:—

"(4) It applies—

(*a*) to every establishment in which five or more workmen are employed or were employed on any day of the preceding twelve months as contract labour;

(*b*) to every contractor who employs or who employed on any day of the preceding twelve months five or more workmen on one or more sites taken together.";

(*ii*) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) It shall also apply to establishments in which work of an intermittent or casual nature is performed.".

Amendment of section 2.

3. In section 2 of the principal Act, in sub-section (*1*),—

(*i*) for clause (*c*), the following clause shall be substituted, namely:—

'(c) "contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, or who supplies contract labour for any work of the establishment and includes a sub-contractor.';

(*ii*) in clause (*i*),—

(*a*) in sub-clause (*B*), for the words "five hundred rupees", the words "two thousand rupees" shall be substituted;

(*b*) sub-clause (*C*) shall be omitted.

Amendment of section 3.

4. In section 3 of the principal Act, in sub-section (*2*), for clause (*c*), the following clause shall be substituted, namely:—

"(c) such number of members, not exceeding twenty-one but not less than fifteen, as the Central Government may nominate to represent that Government, the Railways, the coal industry, the mining industry, the engineering industry, the contractors, the workmen (two each from all Central Trade Union Organisations having national representative character) and any other interests which in the opinion of the Central Government, ought to be represented on the Central Board.".

Amendment of section 4.

5. In section 4 of the principal Act, in sub-section (2), for clause (c), the following clause shall be substituted, namely:—

"(c) such number of members, not exceeding twenty-one but not less than thirteen, as the State Government may nominate to represent that Government, the industry, the contractors, the workmen (two each from all Central Trade Union Organisations and two from the Co-ordination Committee of workmen of construction and erection engineering industry in the eastern region) and any other interests which in the opinion of the State Government, ought to be represented on the State Board.".

Amendment of section 7.

6. In section 7 of the principal Act, the proviso to sub-section (*1*) shall be omitted.

Amendment of section 8.

7. In section 8 of the principal Act, after the words "principal employer", the words "as well as the workmen" shall be inserted.

Amendment of section 10.

8. In section 10 of the principal Act,—

(*i*) for sub-section (*1*), the following sub-sections shall be substituted, namely:—

"(*1*) Notwithstanding anything contained in this Act, the appropriate Government shall, on the recommendations of the Central-Board or, as the case may be a State Board, prohibit by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(*1A*) Notwithstanding anything contained in this Act, the appropriate Government may, *suo motu*, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment in public interest.";

(*ii*) in sub-section (*2*), for the word and figure "sub-section (*1*)", the word and figure "sub-section (*1A*)" shall be substituted.

Amendment of section 12.

9. In section 12 of the principal Act,—

(*i*) in sub-section (*1*), after the word "appoint", the words "but not exceeding three months after the contract Labour (Regulation and Abolition) Amendment Act, 1985 comes into force," shall be inserted;

(*ii*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) No contractor shall, except with express sanction of the principal employer, appoint another licensed contractor as sub-contractor especially when by appointment of such sub-contractor, the workmen under his establishment are rendered idle or retrenched and a sub-contractor where appointed would become a direct contractor under the principal employer.";

(*iii*) in sub-section (*2*),—

(*a*) for the words "may contain", the words "shall contain" shall be substituted; and

(*b*) for the words "the appropriate Government may deem fit to impose", the words "provided under various labour laws enacted by the appropriate Government and also" shall be substituted.

Amendment of section 13.

10. In section 13 of the principal Act, in sub-section (*2*) after the word "prescribed", the words "by the appropriate Government in consultation with the Advisory Board" shall be added.

Amendment of section 14.

11. In section 14 of the principal Act, in sub-section (*1*), for the words "after giving the holder of the licence an opportunity", the words "after giving the holder of the licence and also the workmen an opportunity" shall be substituted.

Amendment of section 15.

12. In section 15 of the principal Act, in the proviso to sub-section (*1*), after the words "thirty days", the words "but in no case after forty-five days" shall be inserted.

Amendment of section 16

13. In section 16 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) for clause (*b*), the following clause shall be substituted, namely:—

"(*b*) wherein work requiring employment of contract labour is likely to continue for such period as may be prescribed, but the period so prescribed shall not be more than three months, and";

(*b*) in clause (c), for the words "one hundred", the word "ten" shall be substituted;

(*ii*) in sub-section (*2*), for clause (*a*), the following clause shall be substituted, namely:—

"(*a*) the date by which the canteens shall be provided but such date shall be within thirty days of the date of coming into force of the rules within the cases of existing and new establishments";

Amendment of section 17

14. In section 17 of the principal Act, in sub-section (1), the words "but not exceeding forty-five days after the contract Labour (Regulation and Abolition) Amendment Act, 1985 comes into force" shall be added at the end.

Amendment of section 18.

15. In section 18 of the principal Act, after clause (c), the following clause shall be added, namely:—

"(*d*) creches—

(*i*) in every establishment, coming within the scope of this Act, where more than fifteen women are employed, a room shall be provided for the use of the children (below six years) of such women, and the room so provided shall be of adequate size, well ventilated and lighted, maintained in a clean and sanitary condition and shall be in the charge of a woman trained in the care of children and infants, and

(*ii*) one such woman shall be provided to look after every ten children.".

Substitution of section 19.

16. For section 19 of the principal Act, the following section shall be substituted, namely:—

First aid facilities.

"19. (*1*) There shall be provided and maintained by the contractor so as to be readily accessible during all working hours—

(*a*) a first-aid box equipped with the prescribed contents at every place where contract labour is employed by him;

(*b*) an ambulance in every establishment, coming within the scope of this Act, where more than hundred workmen inclusive of direct or indirect contract labour are employed, containing the prescribed equipment and in the charge of the prescribed medical and nursing staff"

Insertion of new section 19A.

17. After section 19 of the principal Act, the following new section shall be inserted, namely:—

Safety measures.

"19A. Every establishment coming within the scope of this Act shall ensure that—

(*a*) all dangerous machinery are securely fenced;

(*b*) work on or near any machinery in motion is carried out by specially trained adult workmen with proper dresses and/or clothes;

(*c*) no young workman below the age of twenty-one years is at work at any dangerous machine unless he has been specially instructed as to the dangerous and the precautions to be observed, has received sufficient training about the work, and is under the supervision of some workman having thorough knowledge and experience of the machine;

(*d*) all dangerous machinery are sunk, encased or otherwise effectively guarded;

(*e*) every hoist or lift is so constructed as to be safe and lifting machines, chains, ropes and lifting tackle also are taken care of;

(*f*) all floors, steps, stairs, passages and gangways are of sound construction and properly maintained;

(*g*) pits, sumps, openings in floor, etc. are securely fenced;

(*h*) no workman is made to carry a load of more than fifty-five kilograms for short distance upto one hundred metres and ten kilograms beyond one kilometre;

(*i*) effective screen or suitable goggles are provided to protect the eyes of the worker from fragments/sparks thrown off in the course of welding, etc.;

(*j*) fire escapes are provided.".

Amendment of section 20.

18. In section 20 of the principal Act,—

(*i*) in sub-section (*1*), for the words and figures "provided under section 16, section 17, section 18 or section 19", the words and figures "provided under section 16, section 17, section 18, section 19 or safety to be observed under section 19A" shall be substituted;

(*ii*) for sub-section (*2*), the following sub-section shall be substituted, namely:—

"(2) All expenses incurred by the principal employer in providing the amenity or safety measures may be recovered by the principal employer from the contractor either by deduction from any amount payable to the contractor or otherwise as provided in the law.".

Amendment of section 21

19. In section 21 of the principal Act,—

(*i*) for sub-sections (*1*) and (*2*), the following sub-section shall be substituted, namely:—

"(*1*) Subject to the condition that the final responsibility for payment of wages to contract labour shall be that of the prin-

cipal employer, a contractor shall be responsible for payment of wages which shall be equivalent to the wages fixed under the Minimum Wages Act, 1948 or as prevalent in the industry or establishment of the principal employer or as agreed to by the workmen under a settlement registered under the Industrial Disputes Act, 1947, whichever is higher, to each worker employed by him as contract labour and such wages shall be paid before the expiry of such period as prescribed under Payment of Wages Act, 1936.";

11 of 1948

14 of 1947.

4 of 1936.

(*ii*) sub-section (*3*) and (*4*) shall be renumbered as sub-sections (*2*) and (*3*) respectively.

Insertions of new sections 21A, 21B, etc.

20. After section 21 of the principal Act, the following new sections shall be inserted, namely:—

Extra wages for over-time.

"21A. In every establishment coming within the scope of this Act, where a workman works for more than eight hours on any day or for more than forty-eight hours in any week, he shall, in respect of over-time work, be entitled to wages at the rate of twice his ordinary rate of daily wage.

Bonus.

21B. Workmen engaged in every establishment coming within the scope of this Act, shall be entitled to receive a minimum bonus at the rate of 8.33 per cent per annum.

Working hours.

21C. (*1*) An adult workman shall not be required to work for more than forty-eight hours a week and for more than eight hours on any working day.

(*2*) An adult workman shall be entitled to have at least half an hour of rest on any working day after not more than four hours of work at a stretch.

Weekly holidays.

21D. (*1*) An adult workman shall have a paid rest day on the first day of the week, provided that it may be changed within three days before or after the first day of the week in case of emergency but with the consent of workman.

(*2*) An adult workman who has worked for a period of one hundred and twenty days or more in an establishment during a calendar year shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of one day for sixteen days of actual work performed by him during the previous calendar year.

(*3*) An adult workman shall be allowed half pay leave at the rate of twenty days for each calendar year which may be granted for sickness on medical certificate from doctors.

(*4*) A female workman shall be eligible for maternity leave of twelve weeks with pay to cover a period of confinement, miscarriage or abortion.

(*5*) Subject to emergencies of work/service an absence with pay not exceeding twelve days in the aggregate in a calendar year shall be permissible to every workman in order to meet special circumstances which cannot be foreseen.

Social security.

21E. (*1*) Every workman engaged in any establishment, coming within the scope of this Act, shall be entitled to get all the benefits available under the Employees' State Insurance Act, 1948, namely:—

34 of 1948.

(*a*) sickness benefit,

(*b*) maternity benefit,

(*c*) disablement benefit,

(*d*) dependents benefit,

(*e*) medical benefit,

(*f*) funeral benefit,

or similar such other benefits which are being enjoyed by the workmen in the establishment of the principal employer, whichever is greater.

(*2*) Every workman engaged in any establishment, coming within the scope of this Act, shall be entitled to get the benefits available under the Provident Funds Act, 1925.

19 of 1925.

(*3*) Every workman of any establishment, coming within the scope of this Act, shall be made permanent worker of that establishment after one hundred and twenty days of service at a stretch or one hundred and eighty days with break."

Amendment of Section 22.

21. In section 22 of the principal Act,—

(*i*) in sub-section (*1*),—

(*a*) for the words "three months", the words "one year" shall be substituted;

(*b*) for the words "five hundred", the words "five thousand" shall be substituted.

Amendment of section 23.

22. In section 23 of the principal Act,—

(*i*) for the words "three months", the words "five years" shall be substituted;

(*ii*) for the words "one thousand", the words "ten thousand" shall be substituted;

(*iii*) for the words "one hundred", the words "five hundred" shall be substituted.

Amendment of section 24.

23. In section 24 of the principal Act,—

(*i*) for the words "three months", the words "one year" shall be substituted;

(*ii*) for the words "one thousand", the words "five thousand" shall be substituted.

Amendment of section 25.

24. In section 25 of the principal Act, proviso to sub-section (*1*) shall be omitted.

Amendment of section 26.

25. In section 26 of the principal Act, the following proviso shall be added, namely:—

"Provided that any workman or a registered trade union of workmen in any establishment, who could prove that the inspector

has not taken any action on the complaint made to him within a period of a fortnight, may approach the court directly and the court shall take cognisance of the offences on complaint from the workman or the trade union of such workmen".

Amendment of section 27.

26. In section 27 of the principal Act,—

(*i*) after the words "knowledge of an inspector", the words "or from a date after expiry of six weeks from the date on which a workman or the trade union of workmen lodged first complaint with the inspector;" shall be inserted;

(*ii*) in the proviso, for the words "six months", the words "one year" shall be substituted.

Amendment of section 28.

27. In section 28 of the principal Act,—

(*i*) in sub-section (*1*), after the word "appoint", the words "within three months of the coming into force of the Contract Labour (Regulation and Abolition) Amendment Act, 1985" shall be inserted;

(*ii*) after sub-section (4), the following sub-section shall be added, namely:—

"(5) An inspector appointed under this Act shall maintain a register of complaints of violation of the provisions of this Act or offences committed by a contractor or an establishment brought to his notice by any workman or a registered trade union on behalf of workmen of the said contractor and for the establishment and record action taken thereon including prosecutions launched by him".

Amendment of section 29.

28. In section 29 of the principal Act, in sub-section (*1*), after the words "other particulars", the words "as mentioned in Chapter V of this Act", shall be inserted.

Amendment of section 31.

29. In section 31 of the principal Act, after the words "Government may", the words "with express approval of the Parliament or, as the case may be, the State Legislative Assembly" shall be inserted.

Amendment of section 32.

30. In section 32 of the principal Act, after sub-section (2), the following sub-section shall be added, namely:—

"(3) Any workman or a registered trade union, may prefer a suit or institute prosecution or other legal proceedings against any registering officer, licensing officer, inspector or any other Government servant or any member of the Central Board or the State Board, as the case may be, for any action, which may be *mala fide* or dereliction of duty causing harm to the workmen or their interest and such proceedings shall be treated as cognizable offence as referred to in section 26 of this Act.".

STATEMENT OF OBJECTS AND REASONS

The Central Standing Committee on Rural Unorganised Labour in its meeting held on 9th July, 1980 considered a report submitted by a Sub-Committee headed by Shri B. Bhagwati on bonded labour observed that despite progressive abolition of system of contract labour, there is a possibility of an element of bondage existing amongst contract labour in remote jungle areas. The Committee also accepted that co-ordination between the working of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 and the Bonded Labour System (Abolition) Act, 1976 would have to be effective.

The lacunae existing in the present Contract Labour (Regulation and Abolition) Act, 1970 have not only defeated the purpose for which the law was enacted, but also have become a hurdle in the way of implementation of the aforesaid two Acts. The present Bill is intended to overcome these lacunae and afford protection to the contract labour which comes from rural unorganised labour, i.e. the poorest and the weakest strata of our society and are often exploited not only by the unscrupulous contractors but also by the so-called enlightened management, including the transactional corporations who are increasingly diverting work of perennial and permanent nature to the contractors.

The lacunae in the Act have also stood in the way of functioning of the Advisory Boards constituted under the Act, as it is seen that many decisions for issue of notifications prohibiting employment of contract labour taken as far back as in December, 1977 are still under consideration of the Government. The Bill also seeks to remove these lacunae.

The principal Act had not provided for any machinery for enforcement and workmen had no opportunity to seek redressal of the violations of the Acts and denial of benefits due to them except through raising industrial disputes. The Bill provides for such opportunities to the workmen so that the question of wages, etc. could be standardised and violations proceeded against. This in-built protection under the Act would become a deterrent to inhuman exploitation of the weakest section of labour force in the country.

NEW DELHI;
March 27, 1985.

BASUDEB ACHARYA

BILL No. 99 OF 1985

A Bill to provide for reservation of posts in Government services and seats in educational institutions for persons belonging to economically weaker section of people.

BE it enacted by Parliament in the Thirty-Sixth Year of the Republic of India as follows:

Short title and commencement.

1. (*1*) This Act may be called the Reservation of Posts in Government Services and Seats in Educational Institutions (for Economically Weaker Section of People) Act, 1985.

(*2*) It shall come into force at once.

Definitions.

2. In this Act,—

(*a*) "economically weaker section of people" means a class of persons, irrespective of the caste, whose income from all sources, including the income of the family members, does not exceed five hundred rupees per mensem;

(*b*) "family" means and includes the husband, wife and minor children;

(*c*) "Government services" means services or posts in connection with the affairs of the Union and includes appointments in an undertaking of the Government of India or an undertaking or organisation carrying on any type of activity where fifty-one per cent of its capital has been contributed in any form by the Government of India.

Reservation of posts for economically weaker people.

3. Fifty per cent of the posts in Government services shall be reserved for candidates belonging to economically weaker section of people.

Reservation of seats in educational institutions.

4. Forty per cent of seats in educational institutions, imparting education at a level higher than the senior secondary level, shall be reserved for candidates belonging to economically weaker section of people.

STATEMENT OF OBJECTS AND REASONS

Under the existing rules, reservation of posts in Government services has been made for Scheduled Castes and Scheduled Tribes on the basis of caste. Reservation of seats in educational institutions has also been made on that basis. Scheduled Castes, for whom reservation has been made, are some of the castes notified as such. This basis of reservation is creating hatred and disaffection among the people. The fact is that there are poor people in every class and every caste. No doubt that people of backward classes are very poor but the number of poor in other castes is also quite large. Because of the existing rules, benefit of reservation is not available to these poor people and, therefore, they are unable to raise their standard of living.

In these circumstances, it will be more appropriate if economic condition of people, irrespective of their caste, is made the basis for reservation in public services and educational institutions, etc. Such a provision will benefit the society as a whole as all the persons belonging to economically weaker section of people will have equitable opportunities of raising their standard of living. In fact, the people of backward classes or castes will benefit more if the reservation is made on the basis of economic condition. For example, because of the existing system of reservation on the basis of caste, in case a person belonging to a caste entitled to reservation occupies a high position, even then his family members continue to get all the benefits of reservation, while the very poor persons of that caste are deprived of the benefit of reservation to that extent. This leads to two classes of persons in the same caste. Those who occupy high positions or are otherwise in a better economic condition should not continue to get these benefits. The benefit of reservation should be given only to those remaining people of that community who are poor. But there is no such provision in the existing rules.

It is, therefore, necessary that a law is enacted which may provide that a person belonging to economically weaker section of society, irrespective of his caste, will be entitled to the benefit of reservation. In other words, economic condition of the people should be the basis of reservation in Government services and educational institutions, etc. It will serve two-fold purpose -one, it will eliminate discrimination between the poor belonging to different castes and secondly, only the poor will get the benefit of reservation.

Hence this Bill.

NEW DELHI;
March 28, 1985.

RAM NAGINA MISRA

BILL NO. 103 OF 1985

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Constitution (Amendment) Act, 1985.

(2) It shall come into force at once.

Insertion of new Part IXA.

2. After Part IX of the Constitution, the following Part shall be inserted, namely:—

"PART IXA

PANCHAYAT RAJ

Definition.

243. In this Part, unless the context otherwise requires,—

(*i*) "Panchayat Raj" means and includes a village Panchayat, a Panchayat or Mandal Samithi and a Zila Parishad;

(*ii*) "State" means the Government and the Legislature of each of the States.

Establishment of Panchayat Raj Bodies.

243A. Each State shall by law establish in the respective State, various Panchayat Raj bodies, namely:—

(*i*) a Zila Parishad for each District consisting of such number of elected and nominated members as may be prescribed;

(*ii*) a Panchayat or Mandal Samithi comprising of such number of village Panchayats consisting of such number of members as may be prescribed; and

(*iii*) a village Panchayat consisting of such number of members for a village or villages in the State as may be prescribed.

Term of office of members.

243E. The members of the Panchayat Raj bodies shall hold office for a period of three years from the date of their election or nomination.

Panchayat Raj bodies shall be corporate bodies.

243C. Each Panchayat Raj body shall be a corporate body and shall have perpetual succession and a common seal and shall by the said name sue or be sued.

Provision of machinery for conduct of elections to Panchayat Raj Bodies.

243D. The State shall make rules to provide for the machinery for the conduct of elections to the Panchayat Raj bodies in consultation with the Chief Election Commissioner.

Functions of Panchayat Raj Bodies.

243E. (1) The Panchayat Raj bodies shall perform such executive and administrative functions within their jurisdiction as the State may specify in this behalf.

(2) The State shall decentralise the powers and functions of the various bodies at various levels.

Provisions regarding financial matters and audit.

243F. (1) The State may authorise the Panchayat Raj bodies to levy and collect such taxes and fees as may be prescribed under the rules made by the State in this behalf.

(2) The State shall constitute a Panchayat Raj Fund for each District and shall make rules for the management of such funds.

(3) The State shall constitute a Finance Commission for the purpose of allocation and distribution of revenues between the State and the Panchayat Raj bodies.

(4) The Accountant-General of the State shall cause the accounts of the Panchayat Raj bodies audited in such manner as he may deem fit.

Suspension dissolution of Panchayat Raj bodies by the Governor.

243G. If at any time the Governor of the State is satisfied that any Panchayat Raj body in the State is not functioning in accordance with the provisions of this part of the Constitution or the law made by the State or the functioning of such body is in any way detrimental to the public interest, he may, by order, suspend or dissolve such body and appoint a Special Officer to exercise the power vested in that body.

STATEMENT OF OBJECTS AND REASONS

The time is now ripe for working out the mandate of article 40 of the Constitution. The Panchayat Raj bodies should be reconstituted and revitalised as an organic and integral part of the democratic process and be accorded appropriate constitutional status and recognition.

Apart from the Centre and the States, there should be elected bodies to control the permanent services at the district and lower levels. Democracy at State level and bureaucracy at district and lower levels will endanger the implementation of the ideals of democracy. Therefore the decentralisation of power at the State, district and lower levels has become imperative for the successful functioning of the democratic system of government.

Hence this Bill.

NEW DELHI;
March 29, 1985.

BHATTAM SREERAMAMURTHY.

BILL NO. 98 OF 1985

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1985. Short title.

2. After article 47 of the Constitution of India, the following article shall be inserted, namely:— Insertion of new article 47A.

"47A. The State shall take steps to promote family planning measures so that the population growth is commensurate with economic and social development as well as with ecological balance.". Promotion of family planning.

STATEMENT OF OBJECTS AND REASONS

Despite the family planning programme having been in existence for over thirty years, the drop in the annual increase of population is only marginal. Even in the current Parliamentary and State Legislative Assembly elections, candidates of none of the political parties raised the issue whilst canvassing.

Although the issue is more important than the other 19 listed in Part IV of the Constitution of India which gives Directive Principles of State Policy, family planning does not find a place in it. This is despite the fact that it has been placed in List III—Concurrent List of the Seventh Schedule to the Constitution.

The Bill seeks to focus attention of the nation on this issue of grave importance.

NEW DELHI;
April 1, 1985.

DIGVIJAY SINH

BILL No. 112 OF 1985

A Bill further to amend the Minimum Wages Act, 1948.

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Minimum Wages (Amendment) Act, 1985. Short title.

11 of 1948.

2. In section 2 of the Minimum Wages Act, 1948 (hereinafter referred to as the principal Act), in clause (*h*), after sub-clause (*v*), the following sub-clause shall be inserted, namely:— Amendment of Section 2.

"(vi) any increase in the dearness allowance paid on the basis of the rise in the price index from time to time."

3. In section 22 of the principal Act,— Amendment of section 22

(*i*) for the words "shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both:", the words "shall be punishable with imprisonment for a term not less than five years or with fine not less than five thousand rupees, or with both" shall be substituted;

(*ii*) the proviso shall be omitted

Amendment of section 22A

4. In section 22A of the principal Act, for the words "be punishable with fine which may extend to five hundred rupees", the words "be punishable with fine not less than five thousand rupees," shall be substituted.

Substitution of section 22B.

5. For section 22B of the principal Act, the following section shall be substituted, namely:—

Cognizance of offences.

"22B. No court shall take cognizance of a complaint against any person for an offence under clauses (*a*) and (*b*) of section 22 and under section 22A unless an application in respect of the facts constituting such offence has been presented under section 20 by the aggrieved employees or the union."

Amendment of section 22C.

6. In section 22C of the principal Act, in sub-section (*1*) the proviso shall be omitted.

Omission of section 22E.

7. Section 22E of the principal Act shall be omitted.

Omission of section 23.

8. Section 23 of the principal Act shall be omitted.

Omission of section 26.

9. Section 26 of the principal Act shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The employers are following the practice of denying payment of dearness allowance enhanced by the Government from time to time due to rise in price index by interpreting the definition of wages in the Minimum Wages Act, 1948, in such a manner that the enhancement of rate of dearness allowance is meant only for those who are drawing less than the minimum wage fixed in the region|State. Therefore, there is necessity of changing the definition of wages.

The original Act was passed as back as in 1948. Due to tremendous erosion in the money value and the increase in unfair labour practices, the penalties contained in the Minimum Wages Act, 1948, have become redundant and need to be changed.

Hence this Bill.

NEW DELHI; AJOY BISWAS.

April 4, 1985.

BILL NO. 105 OF 1985

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-Sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 1985.

Amendment of article 244.

2. In article 244 of the Constitution, in clauses (1) and (2), for the words "and Tripura", the words ", Tripura, Bihar, Madhya Pradesh and Orissa" shall be substituted.

Amendment of Fifth Schedule.

3. In the Fifth Schedule to the Constitution, in paragraph 1, for the words "and Tripura", the words ", Tripura, Bihar, Madhya Pradesh and Orissa" shall be substituted.

Amendment of Sixth Schedule.

4. In the Sixth Schedule to the Constitution,—

(*a*) in the heading, for the words "and Tripura", the words ", Tripura, Bihar, Madhya Pradesh and Orissa" shall be substituted;

(*b*) in sub-paragraph (1) of paragraph 1, for the words and figures "Parts I, II and IIA", the words, figures and letters "Parts I, II, IIA, IIB, IIC and IID" shall be substituted;

(c) after paragraph 12AA, the following paragraphs shall be inserted, namely:—

"12AB. *Application of Acts of Parliament and of the Legislature of the State of Bihar to the autonomous district and autonomous regions in the State of Bihar.*—

Notwithstanding anything in this Constitution,—

(*a*) if any provision of a law made by the District or a Regional Council in the State of Bihar with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Bihar with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Bihar, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Bihar shall prevail;

(*b*) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Bihar, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect;

12AC. *Application of Acts of Parliament and of the Legislature of the State of Madhya Pradesh to the autonomous district and autonomous regions in the State of Madhya Pradesh.*—

Notwithstanding anything in this Constitution,—

(*a*) if any provision of a law made by the District or a Regional Council in the State of Madhya Pradesh with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Madhya Pradesh with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Madhya Pradesh, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Madhya Pradesh shall prevail;

(*b*) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in

the State of Madhya Pradesh, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect;

12AD. *Application of Acts of Parliament and of the Legislature of the State of Orissa to the autonomous district and autonomous regions in the State of Orissa.*—

Notwithstanding anything in this Constitution,—

(*a*) if any provision of a law made by the District or a Regional Council in the State of Orissa with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by the District Council or a Regional Council in that State under paragraph 8 or paragraph 10 of this Schedule, is repugnant to any provision of a law made by the Legislature of the State of Orissa with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Orissa, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Orissa shall prevail;

(*b*) the President may, with respect to any Act of Parliament, by notification, direct that it shall not apply to the autonomous district or an autonomous region in the State of Orissa, or shall apply to such district or region or any part thereof subject to such exceptions or modifications as he may specify in the notification and any such direction may be given so as to have retrospective effect.";

(*d*) in paragraph 17, after the words "or Tripura", at both the places where they occur, the words "or Bihar or Madhya Pradesh or Orissa" shall be inserted;

(*e*) in paragraph 20, in sub-paragraph (1),—

(*i*) after the words, figures and letter "in Parts I, II, IIA", the figures and letters ", IIB, IIC, IID" shall be inserted;

(*ii*) after the words "the State of Tripura", the words ", the State of Bihar, the State of Madhya Pradesh, the State of Orissa" shall be inserted;

(*f*) in the Table, after Part IIA and the entries relating thereto, the following Parts shall be inserted, namely:—

"PART IIB

1. Chhotanagpur—Santhalparganas area

PART IIC

1. Surguja District.
2. Jashpur District.
3. Sahadol District.
4. Bilaspur District.
5. Chambal Valley area.

PART IID

1. Gangpur District.
2. Keonjhar District.".

STATEMENT OF OBJECTS AND REASONS

Article 244(2) and Sixth Schedule to the Constitution of India provide for the administration of tribal areas in the States of Assam, Meghalaya and Tripura and creation of autonomous districts in these States, but there is no such constitutional provision for the States of Bihar, Madhya Pradesh and Orissa. Hence the Bill seeks to amend suitably the Constitution by inserting the names of these States in article 244(2) and the Sixth Schedule to the Constitution. The proposed amendment will help in preserving the culture, language and common laws of these areas.

NEW DELHI;
April 6, 1985.

PIYUSH TIRKY

BILL NO. 106 OF 1985

A Bill to promote planned parenthood and for matters connected therewith.

WHEREAS it is imperative that parenthood be planned to help the State in fulfilling its duty of offering adequate means of livelihood with economic, social, political, equitable and a just order that promises basic civic amenities;

AND WHEREAS to achieve it the State has to promote family planning measures so that the population growth is commensurate with economic and social development as well as with ecological balance;

AND WHEREAS to achieve these goals, a new national population policy has to be enunciated;

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Family Welfare Act, 1985.

(*2*) It extends to the whole of India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

National population policy.

2. The Central Government shall enunciate the new national population policy which shall define the incentives and disincentives, that are both practicable as well as effective, to be given to the citizens within one year of the commencement of this Act.

Disqualification for members of Parliament, etc.

3. (*1*) A person shall be, disqualified for being chosen as a member of either House of Parliament or of the Legislature of a State if that person has more than two living children.

(*2*) The disqualification referred to in sub-section (*1*) shall not apply in case of persons having more than two living children on the date of commencement of this Act:

Provided that a person shall be disqualified for being a member of either House of Parliament or the Legislature of a State if that person, after a period of one year of the coming into force of this Act, procreates another living child and thereby the number of living children of that person increases to more than two.

Small family norm for Central Government employees, etc.

4. (*1*) Any Central Government employee or an employee of a public undertaking who has more than two living children shall not be entitled to any increment or promotion in service.

(*2*) Any Central Government employee or an employee of a public undertaking who procreates more than three living children shall be disqualified to continue in service.

(*3*) The provisions of sub-sections (*1*) and (*2*) shall not apply to those Central Government employees or employees of public undertakings who have more than the prescribed number of living children on the date of coming into force of this Act:

Provided that the provisions of sub-sections (*1*) and (*2*) shall apply to those Central Government employees or employees of public undertakings who, after a period of one year of the coming into force of this Act, procreate another living child and thereby the number of living children of such employees increases to more than the prescribed number.

Application of provisions to employees of private sector.

5. The provisions of section 4 shall apply *mutatis mutandis* to the employees in the private sector.

Ban on child marriages.

6. (*1*) No marriage shall be solemnised between a male, who is less than twenty-two years of age, and a female, who is less than twenty years of age.

(*2*) Any contravention of the provisions of sub-section (*1*) shall be a cognisable offence and shall be punishable with simple imprisonment for a term which may extend to three months, or with fine which may extend to rupees one thousand in case of a male and with fine which may extend to rupees one thousand in case of a female.

Women not to be provided with maternity facilities in certain cases.

7. Any woman, who has two living children, shall not be provided with maternity facilities in any Government hospital for the birth of her third child:

Provided that if the woman agrees to undergo sterilisation operation after the birth of her third child, she shall be provided with maternity facilities in Government hospitals for the birth of her third child.

Incentives to women employees.

8. Any woman, employee of the Central Government or of a public undertaking, who undergoes sterilisation operation after the birth of her first or second child, shall be given three months additional salary as an incentive.

Eligibility for receiving advances at a lower rate of interest.

9. Any person having one or two living children who undergoes sterilisation operation shall be eligible to receive advance from a bank or a society at a ten per cent. lower rate of interest than the normal rate of interest.

Bonds to be given by the Central Government.

10. (*1*) Any person, below the age of thirty-two years, having no son but having only one or two living daughters, who undergoes sterilisation operation, shall be given by the Central Government a bond of the face value of rupees one lakh which shall be encashable after a period of twenty years from the date of issue.

(*2*) If the person in whose name the bond has been issued dies before its maturity, the legal heirs of the person shall be entitled to receive the amount of the bond at maturity.

Act to have overriding effect.

11. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being inforce.

STATEMENT OF OBJECTS AND REASONS

India's population is about 740 millions today. With 2.4 per cent. of the global land area, India has 15 per cent. of the world population, thereby making it one of the most densely populated nation of the world. Although, family planning has been a national programme since 1952, the average annual population growth rate has actually increased from 1.25 per cent. to 2.20 during the last 33 years, mainly due to the faster decline in the death rate.

It is projected that by the turn of the century, India shall have three out of the ten most populous cities of the world, and half the population of these cities would be living in sluns under squalid conditions. Actually, without massive public contributions for sewerage, water treatment, air-pollution control and perspective planning, living conditions in all urban areas will progressively deteriorate.

An alarming situation is the apathy of the populace to foresee this population explosion time-bomb which is so glaringly reflected in the last elections, Approximately 4000 candidates of all political parties contested elections, but none of them raised this most valid issue while campaign-the Parliamentary elections and around 25,000 the Legislative Assembly elections, but none of them raised this most valid issue while campaigning. How can family planning therefore be called a programme with people's involvement?

To accommodate the future needs and numbers within the nation's natural capabilities and resources has given rise to unparalled transformation of human values, social institutions and economic structures. The break-down of civic amenities due to over-crowding, law and order situation, unemployment and widening of the gap between the haves and have nots has progressively created an explosive situation. Agricultural land holdings are fast becoming small and uneconomical, the needs for housing are far beyond the available finances and educational facilities are hopelessly inadequate to meet with the existing demands let alone the future ones. There is no balance between population growth and the available opportunities.

Environmentally speaking, the destruction of forests, extinction of species of flora and fauna, spreading of deserts, over-grazing of grasslands, rapid soil erosion and siltation, salinity, rapid lowering of water tables, pollution of air and water, phenomental growth of slums, food and fire-wood shortages and the crises in energy generation and water resources have awesome implication of devastation and destruction of the life support systems. In some cases these are beyond repair.

In a world moving towards working out an optimum human carrying capacity of given regions, based on a population, resource and development inter-relationship, an already densely populated nation like India can hardly expect to achieve a quality of life by adding further to her numbers.

From optimistic Governmental projections, if by the year 2000 A.D. the contraception acceptance rate of all fertile couples is raised from the present level of 30 per cent to 60 per cent. the birth rate will thereafter correspondingly drop from 36 per thousand as of today to 21 per thousand in the year 2000 A.D. and the death rate will drop from 13 per thousand to 9 per thousand during the period. By achieving this goal, the 'Net Reproduction Rate' would come down to one and the average annual population growth rate to 1.25 per cent. Accepting the capabilities of attaining this projection, the population of India will reach 965 millions by the turn of the century. Thereafter, to bring the average annual population growth rate to zero within a time frame, the contraception acceptance rate of all fertile couples will have to be substantially enhanced which in itself is a herculean task after attaining 60 per cent. acceptability. Very optimistically if zero population growth rate is attained by the later half of the 21st century, the population would stabilise at around 1400 millions. It is more likely that zero population growth rate will be attained in the 22nd century when the population would have risen to 1800 millions.

The laudable goals spelt out in the Directive Principles of State Policy in the Constitution of India can best be achieved if the population explosion is checked.

The provisions of the Bill are, therefore, the most effective method to achieve the targeted goal, of net reproduction rate of one by 1995 instead of attaining it in 2000 A. D. It is estimated that at the rate we are going, we shall reach the goal of 'Net Reproduction Rate of one not in the year 2000 but in the year 2010. In that case, the enactment of this Bill shall hasten the process by 15 years. By so doing, we could reach zero population growth rate by the 21st century instead of the 22nd century and we could stabilise our population at around 1200 millions instead of at 1800 millions. Therefore, the enactment of this Bill will save the country from a burden of 600 millions additional population.

The Bill offers a comprehensive package deal of facing the challenge and overcoming the problem. There is no other effective way of doing so.

To enable this Bill to have an impact on all sections of the society, the State Governments will have to be moved to introduce corresponding legislation, particularly amending the Panchayat Act, Municipal Act, Co-operative Societies Act, State Civil Service (Conduct) Rules and other related laws, in their State Legislatures.

NEW DELHI;
April 16, 1985.

DIGVIJAY SINH

FINANCIAL MEMORANDUM

Clause 8 of the Bill provides for payment of three months additional salary to woman employees of the Central Government or of public undertakings as an incentive in case the woman undergoes sterilisation operation after the birth of her first or second child. Clause 9 provides that any person having one or two children if undergoes sterilisation operation shall be eligible to receive advance from a bank or a society at a ten per cent. lower rate of interest than the normal rate of interest. Clause 10 provides that any person below the age of thirty-two years, who has only one or two living daughters, if undergoes sterilisation operation, shall be given by the Central Government a bond of the face value of rupees one lakh which shall be encashable after a period of twenty years from the date of issue. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees one hundred and fifty crores per annum.

It is also likely to involve a non-recurring expenditure of rupees fifty lakhs.

SUBHASH C. KASHYAP,
Secretary-General.

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